



# Tamara GRIGSBY

Wisconsin State Representative  
18th Assembly District

## Testimony Before the Assembly Committee on Judiciary and Ethics February 24, 2009 Assembly Bill 61

I want to thank Chairman Hebl for scheduling Assembly Bill 61 for a public hearing. As the Assembly author of this bill I greatly appreciate the willingness of the Committee to listen to the testimony you will be hearing today.

Current federal law requires Wisconsin courts to suspend the motor vehicle operating privilege of a person, including a juvenile, if the person is convicted of any drug violation. In 2007 over 11,000 revocations or suspensions were due to drug convictions. That means that over 11,000 Wisconsin residents were unable to transport themselves or their families to work or school or the grocery store, or anywhere else for an infraction that had nothing to do with their ability to safely operate their vehicle on our roadways.

AB 61 would make that license suspension for drug violations discretionary with the courts rather than mandatory. It would allow the court to consider each offense on a case-by-case basis and allow a judge to decide if license suspension is the appropriate sanction.

A 2006 study conducted by the University of Wisconsin Milwaukee Employment and Training Institute reported that 89,489 Milwaukee County residents, mostly young and poor, are under driver's license suspension or revocation. Most of these people's licenses have been suspended for reasons other than traffic offenses. One of the reasons that many drivers in the state have had their license suspended is as a result of a drug violation.

We do not automatically suspend a person's driver's license for any number of alcohol related offenses that do not involve a motor vehicle (drunk and disorderly, supplying alcohol to a minor, public drunkenness), so why does it make sense to automatically suspend an individual's drivers license for a drug related offense that does not involve the operation of a motor vehicle?

Having access to a valid driver's license is essential to achieving economic success. It takes a car to reach many of the family-supporting jobs which often times require a person to travel outside the parameters of the public transportation system.

When a crime is committed, the punishment should fit the crime. Suspension of drivers' licenses for unsafe driving is an important and valid sanction to ensure public safety. However, suspending a license for non-driving related offenses makes it impossible for low income individuals to keep their jobs, support their families, and pay their fines.

I thank the committee for your time and consideration of this matter. I am happy to answer any questions Committee members may have.

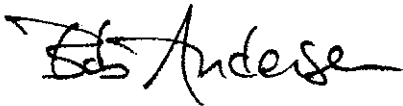
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**LEGALAction**  
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TO: Assembly Committee on Judiciary and Ethics

FROM: Bob Andersen 

RE: Assembly Joint Resolution 15 and Assembly Bill 61, relating to Motor Vehicle Operating Privilege Suspensions for Controlled Substance Violations

DATE: February 24, 2009

Legal Action of Wisconsin, Inc. (LAW) is a nonprofit organization funded by the federal Legal Services Corporation, Inc., to provide legal services for low income people in 39 counties in Wisconsin. LAW provides representation for low income people across a territory that extends from the very populous southeastern corner of the state up through Brown County in the east and La Crosse County in the west. One of the programs of LAW focuses on the removal of barriers to employment, through which we are involved in the restoration of driver's licenses.

The *mandatory* suspension of driver's licenses for drug violations is one of the largest impediments to employment for low income people. *These are drug violations that have nothing to do with the operation of a motor vehicle – other criminal and municipal laws cover that conduct.* The state does not need to make suspensions mandatory and can make them *permissive* orders to be entered in the discretion of the court. The proposal contained in Assembly Joint Resolution 15 and Senate Bill 61 to make these orders permissive has been strongly supported in the past by the Department of Transportation, the Wisconsin District Attorneys Association, and the Milwaukee Police Association.

*In 1990, federal law required each state to make the suspension of driver's licenses mandatory for drug convictions, unless a state governor certified that the governor was opposed to making this mandatory and the governor certified that the legislature adopted a resolution opposing the mandatory suspension of licenses for drug violations. If a state refused to either adopt such a mandatory law or to adopt certifications and resolutions in opposition to making this mandatory, the state would be severely penalized by the loss of federal funds.*

*Unfortunately, in 1991 Wisconsin enacted such a mandatory law. 37 other states made this discretionary.* Wisconsin adopted what is now s. 961.50 in 1991 Wis. Act 39, the budget bill. The statute mandates that driver's licenses be suspended for 6 months to 5 years. In 1993, the statute was amended to make the suspension effective when a person applies for a license, to be consistent with the provision under federal law.

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*In 2007 there were 11,406 licenses withdrawn for drug convictions and there were 14,849 the year before. What makes this policy particularly objectionable is that, under s. 961.50 (3), the mandatory 6 month to 5 year license suspension does not begin to run until the person applies for a license! The result is that many people do not even go in to have their licenses reinstated, because of the futility of applying for a license that will begin to be suspended for as much as 5 years. The further result is that all these drivers return to the roads, without a license and without insurance. They will not pay forfeitures for ordinance violations, because they do not have a license to be suspended. Many of them begin to get into even more trouble with the law, by driving without a license. Some of those are incarcerated and begin lives that will continue to lead them into getting into even further trouble with the law.*

Of course, this has a profound effect on the safety of other drivers and on costs to the municipalities and to the state, if these people continue to drive. Unfortunately, surveys taken by DOT show that many people do continue to drive, because driving is so essential to work. Indeed, this is one of the principal reasons that we favor this proposal, because of the need to enable these people to maintain self supporting employment.

*According to the Department of Transportation, states may still exercise this option to make suspensions permissive, without losing any federal funds. In order to accomplish this objective, AB 61 must be enacted and a joint resolution must be adopted, indicating the approval of the legislature in making this permissive. The governor must certify his approval of this policy as well. AJR 15 is the resolution that contains this affirmation by the legislature.*

This proposal was also recommended a few years ago by a *Driver's License Policy Reform Task Force* in Milwaukee, which recommended 4 different policy proposals relating to a 3 month amnesty program, driver's education, community service options, and making the 5 year license suspensions discretionary rather than mandatory for drug convictions. The Task Force included many representatives of community organizations in the Milwaukee area and was headed by Tyrone Dumas, the Milwaukee Jobs Initiative, the Private Industry Council of Milwaukee County, the Wisconsin Council on Children and Families, and LAW.

A committee of the task force was involved in promoting this proposal to make drug suspensions permissive. The committee included Circuit Court Judge John Siefert; Circuit Court Judge Chuck Klein; Milwaukee County District Attorney Mike McCann; Ladette Austin of Chairman Lee Holloway's Office, County Board of Supervisors; Eloisa Gomez of Making Connections Milwaukee; and Marilyn Walczak of Justice 2000.



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February 24, 2009

Representative Gary Hebl  
Chair, Committee on Judiciary and Ethics  
Room 120 North  
State Capitol  
P.O. Box 8952  
Madison, WI 53708

**RE: Mandatory Motor Vehicle Operating Privilege  
Suspensions For Controlled Substance Violations**

Dear Representative Hebl,

We write in strong support of AB 61 and AJR 15, which would give Wisconsin courts and the Department of Transportation the authority, but no longer the strict obligation, to suspend the motor vehicle operating privilege of a person if that person is convicted of any violation of the state's Uniform Controlled Substances Act. The mandatory feature of the current law does much more harm than good.

Prosecutors across the state regularly issue and promptly resolve low level drug cases in hopes of deterring crime, undermining the cynical business of drug trafficking, and encouraging sobriety and public safety. Often there is minimal or no confinement time associated with the case. When a court in such a case is *required* to suspend the offender's operating privilege--even if that means the offender will then have trouble staying connected with AODA programs or other needed treatment, with employment, school or training opportunities--we are unnecessarily defeating our own goals. On top of that, if the offense at issue does not involve any nexus between controlled substance use or trafficking and driving (such as impaired driving), one can further question the utility of this mode of punishment.

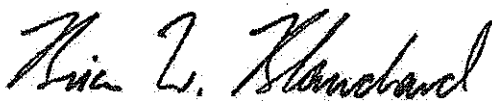
The general or specific deterrent or punishment value in automatic license suspension, beyond the sting of conviction, fines, and other punishment available, is dubious on its face. People who traffic in or carry small amounts of controlled substances generally do not expect to be caught, and they are not a population well known for carefully calibrating the cost/benefit values of their decisions. In any case, moreover, even with a law change we could still count on Wisconsin's able judiciary to look for cases in which license suspension genuinely makes sense to achieve a worthy goal of society.

In addition, the legal costs and complications that arise when persons are caught driving after suspension, perhaps otherwise lawfully and only to get to work or school/training, can be large for the offender and for the system. Our courts are already clogged with serious offenses, such as Operating While Intoxicated, that we have trouble handling adequately given very limited prosecution resources.

Finally, we also believe this is a law that has a disproportionately dire effect, on average, for poor persons and persons of color. Someone living day to day, whether in a challenged urban neighborhood or a poor rural area, is far less likely than a person of means to have access to others able to drive them where they need to go. Driving is a privilege, but it is also a lifeline in both urban and rural settings in Wisconsin.

Thank you very much for considering these thoughts as part of your important deliberations, and we invite you to share them in whole or in part with the Committee as you see fit. We would be happy to discuss any aspect of this issue with anyone.

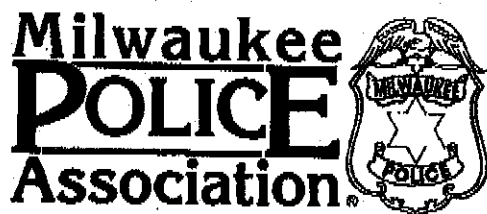
Sincerely,



Brian W. Blanchard  
Dane County District Attorney



John T. Chisholm  
Milwaukee County District Attorney



Local #21 IUPA-AFL-CIO  
February 23, 2009

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Representative Gary Hebl  
Chair, Committee on Judiciary and Ethics  
Room 120 North  
State Capitol  
P.O. Box 8952  
Madison, WI 53708

Dear Representative Hebl:

The Milwaukee Police Association (MPA) represents law enforcement officers in the City of Milwaukee who work every day to ensure public safety in their community. Police officers who serve traffic duty have a commanding number of responsibilities to regulate the rules of the road. Time that is spent pulling over and talking to drivers who have administrative suspensions or revocations of their driver's licenses for non-violent drug offenses displaces the time they could spend pulling over persons who are driving dangerously. The lack of ability to obtain a valid license is the main problem that keeps people in our community from obtaining a job.

The Milwaukee Police Association strongly urges you to pass AB 61 and AJR 15 to allow Wisconsin to join over 35 other states and opt out of the federal law that mandates a minimum six-month suspension of a driver's license for any drug conviction. The MPA believes that the judges should have the discretion to suspend a person's license for a drug conviction and be able to take the factors of the violation into consideration.

This legislation will bring us one step closer to end the revolving door for people who have a revoked or suspended driver's license who are generally safe drivers. Thank you for considering the perspective of law enforcement officers on this important issue. I invite you to share this letter with other members of your committee as you see fit.

Sincerely,

MILWAUKEE POLICE ASSOCIATION

Thomas E. Fischer  
Vice President and Legislation Committee Chair  
Local #21, IUPA, AFL-CIO

TEF/cmj